



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: These new rules update and clarify existing public disclosure procedures for the Office of the Insurance Commissioner. The new rules reflect current laws and processes. The use of questions and answer format make the rules easier to understand for the public and OIC staff.

Insurance Commissioner Matter No. R 2003-10

Citation of existing rules affected by this order:

Repealed: 284-03-080, 284-03-090, 284-03-110, 284-03-120, 284-03-130, 284-03-140, 284-03-990, 284-03-9901
Amended: 284-03-010, 284-03-020, 284-03-030, 284-03-040, 284-03-050, 284-03-060, 284-03-070, 284-03-100
Suspended:

Statutory authority for adoption: RCWs 48.02.060, 48.17.250, 48.17.300, 70.02.050

Other authority : RCW 42.17.250

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-11-107 on 5/19/04 (date).

Describe any changes other than editing from proposed to adopted version:

WAC 284-03-015:

- Subsection (1) – number was deleted and renumbered below;
- Subsection (c) and (d) were reversed and clarification added to (d) "If the information you are requesting may include a list of individuals, a statement that the list will not be used for commercial purposes."

WAC 284-03-105 "state and federal" added.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: July 21, 2004

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY
Information input by Agency

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUL 21 2004

TIME 10:53 **AM**

WSR 04-15-157

**7Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>9</u>	Amended	<u>8</u>	Repealed	<u>8</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>9</u>	Amended	<u>8</u>	Repealed	<u>8</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>9</u>	Amended	<u>8</u>	Repealed	<u>8</u>

Chapter 284-03 WAC

PUBLIC (~~(ACCESS TO INFORMATION AND)~~) RECORDS

PUBLIC RECORDS REQUESTS

NEW SECTION

WAC 284-03-005 What is a public record? "Public record" is defined in RCW 42.17.020. Public records include any written or recorded communication containing information relating to the conduct of the OIC or the performance of any governmental or proprietary function prepared, owned, used, or retained by the OIC.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-010 (~~(Purpose-)~~) Who should I contact about a public record request? ((The purpose of this chapter is to provide rules implementing RCW 42.17.250 - 42.17.320 (§§ 25 through 32, chapter 1, Laws of 1973).)) The public records officer is in charge of all records maintained by the office of the insurance commissioner (OIC). This includes records at any office in the state maintained by the insurance commissioner. The public records officer is responsible for overseeing the release of public records, coordinating OIC public disclosure staff, and maintaining the records indexes.

NEW SECTION

WAC 284-03-015 How do I make a public record request? Public record requests must be made in writing. The OIC accepts written public record requests made in person or sent by e-mail, fax, or mail. Requests will be accepted either:

(1) On an OIC Public Disclosure Request form. The forms are available on the OIC website or by contacting the public records officer; or

(2) If the OIC form is not used, the public record request should be in writing and include the following information:

(a) The name of the person requesting the record;

(b) The calendar date on which the request was made;

(c) A sufficient description of the record requested; and

(d) If the information you are requesting may include a list of individuals, a statement that the list will not be used for commercial purposes.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-020 ((Definitions.)) What records indexes are available? ~~((1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.~~

~~((2) "Office" is the office of the insurance commissioner of the state of Washington, which includes by operation of law the office of the state fire marshal.))~~ The OIC does not maintain or have custody of all agency records. Historical records are sent to the secretary of the state's archives division. The OIC maintains a current index providing identifying information regarding OIC public records. The index is available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. The records are indexed:

(1) By appropriate names;

(2) By calendar year;

(3) By topic; or

(4) A combination of the above methods, as appropriate.

NEW SECTION

WAC 284-03-025 Is the OIC required to create public records for me? The Public Disclosure Act (RCW 42.17.250 through 42.17.348) requires access to existing, identifiable public records in an agency's possession at the time of the request (see RCW 42.17.270). The OIC is not required to collect or organize data to create a public record that does not exist at the time of the public record request.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-030 ~~((Functions--Organization--Administration--))~~ **How will the OIC respond to my public record request?**

(1) For purposes of this chapter, the functions, organization and administration of the office relating to insurance matters shall be as set forth in chapter 284-02 WAC.

~~((2) For purposes of this chapter, the functions, organization and administration of this office relating to the state fire marshal shall be as set forth in chapter 212-02 WAC.))~~ Within five business days after receiving a request, the OIC will either:

(a) Provide the record(s);

(b) Acknowledge your request and give you a reasonable estimate of how long the agency will take to provide records. If your request is not clear, the OIC may ask you for more information (see WAC 284-03-035); or

(c) Deny all or part of the request in writing, with reasons for the denial (see WAC 284-03-040 and 284-03-045). The explanation will include the law the OIC relied upon in its denial. Every denial will be sent to the public records officer for review as required by RCW 42.17.320.

(2) At his or her discretion, the public records officer may send the requested records to you by e-mail, fax, or mail. The records may be delivered on computer or compact disks, or by use of other methods of transmittal or storage.

NEW SECTION

WAC 284-03-035 **Why might the OIC need to extend the time to respond to a public record request?** The OIC may need to extend the time to respond to a public record request to:

(1) Locate and gather the information requested;

(2) Notify an individual or organization affected by the request;

(3) Determine whether the information requested is exempt from disclosure and whether all or part of the public record requested can be released; or

(4) Contact you to clarify the intent, scope or specifics of the request. If you fail to clarify the request, the OIC may not have to respond to your request.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-040 ~~((Public records available.))~~ **What happens if the public record I requested is exempt from disclosure?**
~~((Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by RCW 42.17.310 and these rules.))~~ If the OIC determines that a record is exempt from disclosure, you will be informed in writing of the specific exemption authorizing the OIC to withhold the record.

NEW SECTION

WAC 284-03-045 **What happens if only part of the record I requested is exempt?** The OIC may delete identifying details or other information when there is reason to believe the information is not subject to disclosure (see RCW 42.17.260 for an example). The public records officer will explain any deletion in writing.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-050 ((Public records officer.)) Will the OIC review the denial of my request? ~~((The public records officer for the office shall be the administrative officer, as designated by the state insurance commissioner, for all records maintained by such office whether located at the central office thereof at Olympia, Washington, or at such other offices throughout the state maintained by the state insurance commissioner. The public records officer shall be located at such central office. The public records officer shall be responsible for implementation of this chapter regarding release of public records, coordinating the staff of the office in this regard, generally insuring compliance by the staff with the public records disclosure requirements of RCW 42.17.250 - 42.17.320, and maintaining the records index of such office as required.))~~ If the OIC denies your public record request, you may ask the OIC to review the denial. To request a review, you must:

- (1) Make your request in writing;
- (2) Specifically refer to the written exemption provided by the OIC; and
- (3) Address the request for review to the OIC's public records officer.

After receiving your request for review, the public records officer will refer the matter for review to the insurance commissioner or a designated deputy insurance commissioner. The commissioner or designee will either affirm or reverse the denial within two business days after the receipt of your request for review.

NEW SECTION

WAC 284-03-055 What are the fees to copy or inspect records? There is no cost to inspect records. Copying or duplicating fees are intended to equal the costs to the OIC, including costs of materials, machinery, and personnel. The fees charged will be reviewed periodically to assure their accuracy (see RCW 42.17.300). Contact the public records officer or check the OIC website to find out the current fees.

AMENDATORY SECTION (Amending Order R 90-9, filed 8/28/90, effective 9/28/90)

WAC 284-03-060 ((Records—index.)) What records can I inspect and/or copy? ((The office has available to all persons a current index which provides identifying information as to public records received, issued, adopted or promulgated since its inception. The current index adopted by the office shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

The indexes shall be kept current and maintained by the commissioner's designee, located in the Olympia office, and shall be updated no less frequently than annually. All indexes maintained by the commissioner shall be indexed by appropriate names, by calendar year, by topic, or a combination of these, as appropriate.)) You may inspect or get copies of all public records unless they are exempted by chapter 42.17 RCW, Title 48 RCW, chapter 19.108 or 70.02 RCW, or other applicable law.

NEW SECTION

WAC 284-03-065 When can I inspect or copy documents? You can inspect and copy public records at the OIC headquarters in Thurston County from 8:30 a.m. to noon and 1:00 p.m. to 4:30 p.m., Monday through Friday. Records are not available for inspection or copying on legal holidays. The OIC reserves the right to restrict your ability to examine or copy public records when the OIC believes it is necessary to preserve public records or prevent interference in the performance of agency duties. This does not prevent OIC from providing you with copies of the public records or limit the duty of the OIC to provide you with copies of the public records.

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-070 ((Office hours.)) Do I need to make an appointment? ~~((Public records shall be available for inspection and copying during the customary office hours of the office. For purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.))~~ Appointments are not required but help the OIC provide prompt and efficient service. Since public records facilities and staff are limited, you should make an appointment with the public records officer. When making an appointment, please tell the public records officer what record(s) you would like to inspect or copy. Some records may be offsite, may need to be identified, or may be exempt from disclosure.

NEW SECTION

WAC 284-03-075 Can I take original records away from the OIC's office? No. You cannot take original records from the OIC's building. The OIC has a duty to protect public records (see RCW 42.17.290).

USE AND PROTECTION OF PERSONAL INFORMATION BY THE OIC

AMENDATORY SECTION (Amending Order R-75-1, filed 5/19/75)

WAC 284-03-100 ((Exemptions.)) If I make a complaint or inquiry, how will the OIC use that information? ~~((1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 284-03-080 is exempt under the provisions of RCW 42.17.260 and/or such other laws as may be deemed applicable.~~

~~(2) In addition, pursuant to RCW 42.17.260 the office reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy or as otherwise provided in WAC 284-03-040. The public records officer will fully justify such deletion in writing.~~

~~(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.))~~ The OIC will use the information you provide in a consumer complaint or inquiry to attempt to resolve your issue or inquiry. This includes contacting the business or person you complained about and any other persons, governments, businesses, or entities that may help the OIC resolve your complaint. If you do not wish the information to be disclosed by the OIC, you must state that in writing to the OIC. This may prevent the OIC from assisting you in resolving your issue.

NEW SECTION

WAC 284-03-105 Will the OIC protect my personal information? The OIC reserves the right to protect personal information, including health information, as permitted by RCW 42.17.250 through 42.17.348, chapter 70.02 RCW, Title 48 RCW, and other applicable state or federal laws.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-03-080	Requests for public records.
WAC 284-03-090	Copying fees.
WAC 284-03-110	Review of denials of public records request.
WAC 284-03-120	Protection of public records.
WAC 284-03-130	Consumer complaints and inquiries.
WAC 284-03-140	Adoption of forms.
WAC 284-03-990	Form 276-1--Request for inspection of records.
WAC 284-03-99001	Form 276-2--Request for photocopy of record(s).